

WASHINGTON METROPOLITAN AREA TRANSIT COMMISSION

WASHINGTON, DC

ORDER NO. 3556

IN THE MATTER OF:

Served September 17, 1990

Application of BLUE LINES, INC.,)
and ALL ABOUT TOWN, INC.,)
Concerning Proposed Lease of)
Equipment)

Case No. AP-90-33

By Order No. 3541, served August 16, 1990, the Commission provided for the filing of certain pleadings in the above-captioned matter and granted 180 days temporary approval of the proposed lease. On September 4, 1990, protestant Gold Line, Inc., timely filed an application for reconsideration of Order No. 3541.

The bulk of Gold Line's application for reconsideration concerns itself with the Commission's procedures relative to consideration of this application pursuant to the Compact, Title II, Article XII, Section 12(a)(2)(i). To this extent Gold Line seeks reconsideration of an interlocutory, procedural order, and to this extent the application for reconsideration will not lie and, therefore, is dismissed. It is clear that this proceeding remains open with regard to any findings or action of the Commission relative to Section 12(a)(2)(i) and that Order No. 3541 is not the "final order or decision of the Commission" contemplated by the Compact, Title II, Article XII, Section 16.

To the extent that Gold Line assails the Commission's action under the Compact, Title II, Article XII, Section 12(d), the application for reconsideration is denied. In this regard, Gold Line asserts that:

The Commission having recognized and found that its only power to grant temporary authority for the lease of carrier properties is that provided by the Compact, Title II, Article XII, Section 12(d) erred in granting temporary authority for the lease of six buses by AAT to BL without making the required statutory finding that "failure to grant such temporary approval may result in destruction of or injury to such carrier properties sought to be acquired, or to interfere substantially with their future usefulness in the performance of adequate and continuous service to the public" or to make findings of fact that could possibly justify the required statutory finding. [Application for Reconsideration, p. 7.]

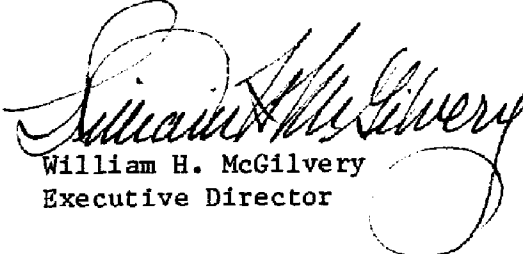
As to this matter Gold Line is simply wrong. The Commission said in its order:

Finally, we see no utility in having these vehicles sit idle when Blue Lines wants to use them to perform operations authorized by its Certificate No. 10. The Compact, Title II, Article XII, Section 12(d) addresses this situation by providing that, during the pendency of determination of a Section 12(a)(2)(i) application, the Commission may, in its discretion, and without hearings or other proceedings, grant temporary approval for a period not exceeding 180 days. By this order the Commission will grant such temporary approval of the proposed lease. [Order No. 3541, p. 3.]

If Gold Line's point is that the Commission did not use the exact words in the Compact, for example "usefulness" instead of "utility," we know of no requirement to do so. If Gold Line's point is that the Commission did not address the necessary issues, then it is wrong.

For these reasons and as stated above, Gold Line's application for reconsideration of Order No. 3541 is dismissed as it relates to the Compact, Title II, Article XII, Section 12(a)(2)(i) and is denied as it relates to the Compact, Title II, Article XII, Section 12(d).

BY DIRECTION OF THE COMMISSION; COMMISSIONERS WORTHY, SCHIFTER, AND SHANNON:


William H. McGilvery
Executive Director